

**REMARKS**

In accordance with the foregoing, the specification and claims 1-3 have been amended and claim 5 has been cancelled. No new matter is presented and, accordingly, approval and entry of the foregoing amendments are respectfully requested.

**STATUS OF CLAIMS**

Claims 1-10 are rejected.

Claims 1-4 and 6-9 are pending and under consideration.

**ITEM 2: REJECTION OF CLAIMS 1-7, 9 and 10 UNDER 35 U.S.C. §102(e) AS ANTICIPATED BY KIMURA ET AL. (US 2003/0233579);**

**ITEM 3: REJECTION OF CLAIMS 1, 3 AND 6-9 UNDER 35 U.S.C. §102(e) AS ANTICIPATED BY ZADIKIAN ET AL. (US 2006/0251419A1);**

**ITEM 5: REJECTION OF CLAIM 8 FOR OBVIOUSNESS UNDER 35 U.S.C. §103(a) OVER KIMURA ET AL. (US 2003/0233579)**

The rejections are respectfully traversed.

Claim 1 is amended to include the feature that the network signal processing unit further includes a flow monitoring and adjusting unit which monitors and adjusts an amount of flow of the synchronized digital signal supplied from the cross-connect unit. These limitations were originally set forth in claim 5, as originally filed.

In the Office Action, the Examiner contends that Kimura discloses in paragraphs 0027 and 0106 the feature recited in claim 5 as originally filed. It appears that the Examiner equates the monitoring unit (i.e., determination control unit 320) of Kimura to the claimed flow monitoring and adjusting unit. The determination control unit 320 of Kimura, however, only monitors whether an instruction requesting a protection operation from the RPR apparatus 11 is issued from the SONET apparatus 21 within the communication network. It is the issuing of the instruction that is monitored in Kimura; by contrast, it is an amount of flow of the synchronized digital signal that is monitored as recited in claim 1, as amended. Monitoring of the issuing of a request instruction is different from and not obvious in view of monitoring of an amount of flow of a synchronized digital signal.

Further, Kimura only teaches effecting the protection operation based on the result of the monitoring made by the determination control unit 320. Namely, what is monitored (the

instruction) is not adjusted based on the result of monitoring in Kimura. By contrast, what is monitored (the amount of flow) is adjusted, based on the result of monitoring as recited in claim 1 as amended. In other words, what is monitored and what is adjusted are one and the same as recited in claim 1, as amended, while Kimura does not teach or suggest such monitoring and adjustment.

Accordingly, Kimura fails to anticipate the invention of claim 1 as amended.

Claim 5 as originally filed is not rejected as being anticipated by Zadikian. Claim 1 is amended hereinabove to include all the limitations of claim 5 and, thus, patentably distinguishes over Zadikian.

## CONCLUSION

It is respectfully submitted that the foregoing has clearly distinguished the pending claims over the references and rejections of record. Further, all outstanding objections have been overcome by the foregoing. There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.


If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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